

SENATE BILL 692

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 9; Title 29; Title 50; Title 58; Title 63 and Title
68, relative to certain healthcare practitioners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the Uniform Emergency
Volunteer Health Practitioners Act.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Disaster relief organization" means an entity that provides emergency or
disaster relief services that include health or veterinary services provided by volunteer
health practitioners and that:

(A) Is designated or recognized as a provider of those services pursuant
to a disaster response and recovery plan adopted by an agency of the federal
government or the Tennessee emergency management agency; or

(B) Regularly plans and conducts its activities in coordination with an
agency of the federal government or the Tennessee emergency management
agency;

(2) "Emergency" means an event or condition that is an emergency, disaster, or
public health emergency under Tennessee Code Annotated, title 58 or title 68.

(3) "Emergency declaration" means a declaration of emergency issued by a
person authorized to do so under the laws of this state;

(4) "Emergency Management Assistance Compact" means the interstate
compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and § 58-2-
403;

(5) "Entity" means a person other than an individual;

(6) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services;

(7) "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services;

(8) "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(A) The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(ii) Counseling, assessment, procedures, or other services;

(B) Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(C) Funeral, cremation, cemetery, or other mortuary services.

(9) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;

(10) "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. "License" includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity;

(11) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(12) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority;

(13) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(14) "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(A) Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(B) Use of a procedure for reproductive management; and

(C) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans; and

(15) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. "Volunteer health practitioner" does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

SECTION 3. This act applies to volunteer health practitioners registered with a registration system that complies with Section 5 and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

SECTION 4.

(a) While an emergency declaration is in effect, the Tennessee emergency management agency (TEMA) may limit, restrict, or otherwise regulate:

(1) The duration of practice by volunteer health practitioners;

(2) The geographical areas in which volunteer health practitioners may practice;

(3) The types of volunteer health practitioners who may practice; and

(4) Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued pursuant to subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of title 4, chapter 5.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

(1) Consult and coordinate its activities with TEMA to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) Comply with any laws other than this act relating to the management of emergency health or veterinary services.

SECTION 5.

(a) To qualify as a volunteer health practitioner registration system, a system must:

(1) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

(3) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this act; and

(4) Meet one (1) of the following conditions:

(A) Be an emergency system for advance registration of volunteer health-care practitioners established by a state and funded through the Health Resources Services Administration under Section 319l of the Public Health Services Act, 42 USC Section 247d-7b, as amended;

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to Section 2801 of the Public Health Services Act, 42 U.S.C. Section 300hh, as amended;

(C) Be operated by a:

(i) Disaster relief organization;

(ii) Licensing board;

(iii) National or regional association of licensing boards or health practitioners;

(iv) Health facility that provides comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital; or

(v) Governmental entity; or

(D) Be designated by TEMA as a registration system for purposes of this act.

(b) While an emergency declaration is in effect, TEMA, a person authorized to act on behalf of TEMA, or a host entity, may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(c) Upon request of a person in this state authorized under subsection (c), or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

SECTION 6.

(a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with Section 5 and licensed and in good standing in the state upon which the practitioner's registration is based, may practice in this state to the extent authorized by this act as if the practitioner were licensed in this state.

(b) A volunteer health practitioner qualified under subsection (a) is not entitled to the protections of this act if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting

or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

SECTION 7.

(a) As used in this section:

(1) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

(2) "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(b) This act does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

SECTION 8.

(a) Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

(b) Except as otherwise provided in subsection (c), this act does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the services.

(c) The Tennessee emergency management agency may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to

this act. An order under this subsection (c) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of title 4, chapter 5.

(d) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to this act.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide a service if:

(1) The practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service; or

(2) From all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service.

(f) In addition to the authority granted by law of this state other than this act to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

(1) May impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

(2) May impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

(3) Shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

SECTION 9.

(a) This act does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this act. Except as otherwise provided in subsection (b), this act does not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

(b) The Tennessee emergency management agency, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state.

SECTION 10. The Tennessee emergency management agency (TEMA) may promulgate rules to implement this act in accordance with the provisions of the Uniform Administrative Procedures Act compiled in title 4, chapter 5. In doing so, TEMA shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact and shall also consult with and consider rules promulgated by similarly empowered agencies in other states to promote uniformity of application of this act and make the emergency response systems in the various states reasonably compatible.

SECTION 11.

(a) As used in this section:

(1) "Coordinating entity" means an entity that acts as a liaison to facilitate communication and cooperation between source and host entities but does not provide health or veterinary services in the ordinary course of its activities as liaison; and

(2) "Source entity" means a person located in this or another state that employs or uses the services of health practitioners authorized to provide healthcare or veterinary services pursuant to this act.

(b) Subject to subsection (c), volunteer health practitioners authorized to provide health or veterinary services pursuant to this act are not liable for the payment of a judgment based on their acts or omissions in providing services, nor shall they be named as defendants in an action based on such acts or omissions.

(c) Notwithstanding subsection (b), this section does not apply to:

(1) Willful, wanton, grossly negligent, reckless, or criminal conduct of, or an intentional tort committed by, a volunteer health practitioner; or

(2) An action brought against a volunteer health practitioner:

(A) For damages for breach of contract, other than for contracts related to the provision of health or veterinary services;

(B) By a source or host entity; or

(C) Relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle by a volunteer health practitioner for which this state requires the operator to have a valid operator's license or to maintain liability insurance, other than an ambulance or other emergency response vehicle, vessel, or aircraft operated by a volunteer health practitioner

responding to a request for health or veterinary services or transporting a patient.

(d) Source, coordinating, and host entities are not vicariously liable for the acts or omissions of volunteer health practitioners in providing health or veterinary services authorized pursuant to this act.

(e) Source, coordinating, and host entities are not liable for civil damages for the operation of, or reliance upon information provided by, a registration system unless the acts or omissions constitute an intentional tort or are willful, wanton, grossly negligent, reckless, or criminal in nature.

(f) Notwithstanding subsection (b), for purposes of recovering damages from the state, volunteer health practitioners shall be considered volunteer state employees under § 8-42-101(3)(B) for purposes of § 9-8-112 for the purposes of recovering damages from the states based on their acts or omissions in providing health or veterinary services pursuant to this act.

SECTION 12. Notwithstanding the provisions of § 8-42-101(3)(B) concerning working compensation coverage of certain state employees, a volunteer health practitioner who is providing health or veterinary services in this state pursuant to this act, or who is traveling to or from this state to provide such services, and who is not covered by workers' compensation insurance, shall be considered an employee of this state for purposes of any medical workers' compensation benefits concerning any injury incurred in traveling or providing the services. Benefits for volunteer health practitioners are limited to those medical benefits provided to state employees under the laws of this state.

SECTION 13. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 14. Tennessee Code Annotated, Title 58, Chapter 2, is amended by adding the following as a new part 8.

SECTION 15. This act shall take effect July 1, 2007, the public welfare requiring it.